

UNITED STATES OF AMERICA 117 FERC ¶ 62,220
FEDERAL ENERGY REGULATORY COMMISSION

United States Department of Energy -
Southeastern Power Administration
(Kerr-Philpott System of Projects)

Docket No. EF06-3041-000

ORDER CONFIRMING AND APPROVING RATE SCHEDULES
ON A FINAL BASIS

(December 8, 2006)

On August 16, 2006, the Deputy Secretary of Energy (Deputy Secretary) requested final confirmation and approval of Southeastern Power Administration's (Southeastern) Rate Schedules VA-1-A, VA-2-A, VA-3-A, VA-4-A, CP&L-1-A, CP&L-2-A, CP&L-3-A, CP&L-4-A, AP-1-A, AP-2-A, AP-3-A, AP-4-A, NC-1-A, Replacement-2, and VANC-1, applicable to the sale of power from Southeastern's Kerr-Philpott System of Projects (Kerr-Philpott).¹ The Deputy Secretary placed the revised rate schedules into effect on an interim basis effective October 1, 2006,² and requests final confirmation and approval of the rates for the period October 1, 2006, through September 30, 2011.³ Southeastern explains that the current rates at the present levels are not adequate to meet cost recovery criteria; therefore, Southeastern proposes a 12 percent increase in the annual revenues from \$11.6 million to \$13.02 million.

Southeastern maintains that the proposed rates provide the lowest possible rates required to satisfy repayment criteria.

Notice of the application was published in the *Federal Register*, 71 Fed. Reg. 51,597 (2006), with comments, protests, or motions to intervene due on or before September 15, 2006. None were received. Notices of intervention and unopposed timely

¹ Kerr-Philpott consists of two multipurpose hydroelectric projects whose power output is sold to preference customers in Virginia, North Carolina, and South Carolina.

² Rate Order No. SEPA-46 was issued on August 15, 2006, under the authority granted to the Deputy Secretary by the Department of Energy Delegation Order Nos. 00-037.00 (December 6, 2001) and 00-001.00B (July 28, 2005), (Delegation Order).

³ These rate schedules will supercede the prior rate schedules, which were approved on a final basis in the *United States Department of Energy-Southeastern Area Power Administration* (Kerr-Philpott System of Projects), 98 FERC ¶ 62,156 (2002).

filed motions to intervene are granted pursuant to the operation of Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.214). Any opposed or untimely motion to intervene is governed by the provisions of Rule 214.

Standard of Review:

The Secretary of Energy has delegated the authority to confirm and approve Southeastern's rates on a final basis to the Commission,⁴ and established the scope of Commission review. The scope of Commission review is limited to:

- whether the rates are the lowest possible to customers consistent with sound business principals;
- whether the revenue levels generated by the rates are sufficient to recover the costs of producing and transmitting the electric energy including the repayment, within the period of cost recovery permitted by law, of the capital investment allocated to power and costs assigned by Acts of Congress to power for repayment; and
- the assumptions and projections used in developing the rate components that are subject to Commission review.⁵

The Commission is prohibited from reviewing policy judgments and interpretations of the laws and regulations made by the power generating agencies.⁶ The Commission may reject the rate determinations of Southeastern's Administrator only if it finds them to be arbitrary, capricious, or in violation of the law, if they violate the Department of Energy regulations (e.g., Order No. RA 6120.2 which prescribes Southeastern's financial reporting policies, procedures, and methodologies), or if they violate agreements between the Administrator and the applicable power generating agency. The Commission considers its role as that of an appellate body which reviews the record developed by the Administrator. In other words, the Commission only affirms

⁴ Section 3 of the Delegation Order.

⁵ *Id.*

⁶ The power generating agencies include the Bureau of Reclamation, the Army Corps of Engineers, and the International Boundary and Water Commission. These agencies build and operate various projects. The power marketing administrations market the output of the projects.

or remands the rates submitted to it for final review.⁷

Discussion:

Southeastern explains that the existing hydroelectric power rates for the Kerr-Philpott Project are not adequate to meet repayment criteria; therefore, based on an examination of Southeastern's current Power Repayment Study (PRS), an increase in annual revenues of \$1.4 million or 12 percent from \$11.6 million to \$13.02 million, beginning October 1, 2006, is needed to meet repayment criteria. Southeastern maintains that the proposed annual rate is the lowest possible rate needed to repay all costs of the project, including amortization of the power investment.

By statute,⁸ Southeastern must repay the federal investment from power revenues within a reasonable period of time, which as a general practice is 50 years. Our review of Southeastern's PRS indicates that the revenues to be collected under the proposed rates will be sufficient to recover Southeastern's costs, including recovery of the remaining federal investment, with interest, over the remaining repayment period. Moreover, since the revenues generated by the proposed rates recover no more than Southeastern's annual costs and the remaining federal investment, the rates are the lowest possible to customers. Our review also indicates that the PRS was prepared in a manner consistent with Order No. RA 6120.2 which requires that Southeastern's system financial statements must be prepared in accordance with generally accepted accounting principals, as appropriate, and that its PRS be prepared using sound forecasting techniques designed to approximate as closely as possible actual results.

Because Southeastern's proposed rates are consistent with the standards by which they must be judged, they merit final confirmation and approval.

The Director:

Confirms and approves on a final basis Southeastern's proposed Rate Schedules VA-1-A, VA-2-A, VA-3-A, VA-4-A, CP&L-1-A, CP&L-2-A, CP&L-3-A, CP&L-4-A, AP-1-A, AP-2-A, AP-3-A, AP-4-A, NC-1-A, Replacement-2, and VANC-1 for the

⁷ See, e.g., *U.S. Department of Energy- Western Area Power Administration (Boulder Canyon Project)*, 61 FERC 61,229 at 61,844 (1992), *aff'd in relevant respects*, *Overton Power District No. 5 v. Watkins*, 829 F. Supp. 1523, (D. Nevada 1993), *vacated and remanded with directions to dismiss*, *Overton Power District No. 5 v. O'Leary*, 73 F. 3d 253 (9th Cir. 1996); *United States Department of Energy- Western Area Power Administration (Salt Lake City Area Integrated Projects)*, 59 FERC 61,058 at 61,240-41 & nn. 17&20, *reh'g denied*, 60 FERC 61,002 (1992).

⁸ 16 U.S.C. § 825s (2000).

period of October 1, 2006, through September 30, 2011.

Authorities:

This action is taken pursuant to the authority delegated to the Director, Division of Tariffs and Market Development- Central, under 18 C.F.R. § 375.307 of the Commission's Regulations. This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. § 385.713.

Michael C. McLaughlin, Director
Division of Tariffs and Market Development - Central